

MURRAY- NOLAN BERUTTI LLC
Attorneys at Law

Partners

Gwyneth K. Murray- Nolan (NJ, NY, DC)
Ronald A. Berutti (NJ, NY, KY)

Associates

Rebecca R. Petersen (NJ)
Nicholas P. Nachtergaele (NJ)

Reply to: Ron@MNBlawfirm.com

June 14, 2024

Via eCourts

Honorable Georgette Castner, U.S.D.J.
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street Room 2020
Trenton, NJ 08608

Doe v. Delaware Valley High School Board of Ed. et als.
Civ. No. 3:24-cv-107 (GC)(JBD)
Our File No. 01195

Dear Judge Castner,

As Your Honor is aware, this firm represents the plaintiff, Mr. Doe, herein. Please accept this letter in lieu of a more formal reply brief, together with the accompanying Reply Declaration of John Doe as our client's reply, in further support of Mr. Doe's application for an Order to Show Cause.

Mr. Doe's Order to Show Cause application is premised on the DVRHS Defendants violating two state constitutional rights (1) the failure to provide Mr. Doe's daughter with a thorough and efficient free public education; and (2) Mr. Doe's right to pursue this litigation.

The DVRHS Defendants have responded without addressing the argument that by their actions, the DVRHS Defendants are attempting to force Mr. Doe to make a choice of either dropping his litigated objections to DVRHS Defendants' continued social transitioning of his daughter, Jane Doe, so that she can take final exams and be passed on to her sophomore year, or to litigate the issue so that the litigation will cause harm to his daughter. Such act constitutes a blatant interference with Mr. Doe's right to litigate, as set forth in the moving brief. The DVRHS Defendants' failure to address such issue in opposition should cause Mr. Doe's argument in such regard to be deemed unopposed. *See, e.g., Beazer East, Inc. v. Mead Corp.*, 412 F.3d 429, 437 (6th Cir. 2005)(quotation omitted) ("the appellee waives, as a practical matter anyway, any objections not obvious to the court to specific points urged by the [appellant]."); *Cesar da Silva v. NJ Nawech Constr. Servs. LLC*, 2024 U.S. Dist. LEXIS 78379, *3-4 (in the default context, "failure to respond permits the Court to draw an inference of culpability on [their] part."); *Rapid Models &*

Honorable Georgette Castner, U.S.D.J.

June 14, 2024

Page 2

Prototypes, Inc. v. Innovated Solutions, 71 F. Supp. 3d 492, 506 (D.N.J. 2014) (“failure to respond to an argument advanced in support of a motion to dismiss results in a waiver of the claim sought to be dismissed.”)

The arguments actually made by the DVRHS Defendants are mendacious. The DVRHS Defendant assert “facts” which at best are technically correct, but which in all other respects are completely false. They this Court to believe that Jane Doe has not performed any school work since she was pulled out of school during the course of this litigation. As detailed in the Reply Declaration of John Doe, the effort to make such impression is completely false and is belied by the facts. Indeed, Jane has completed every assignment and is in constant communication with her teachers. Further, her grades have been stellar. The DVRHS Defendants’ efforts to paint a false picture to the contrary should result in rejection of their argument in its totality.

For such reasons, and for the reasons set forth in the application for an Order to Show Cause, it is respectfully requested that the Order to Show Cause be entered in Mr. Doe’s favor in the interest of justice and to maintain the *status quo*.

We thank Your Honor for consideration of the above.

Respectfully yours,

MURRAY-NOLAN BERUTTI LLC

s/ Ronald A. Berutti

By: _____
Ronald A. Berutti

RAB/hlf

cc: All Counsel of Record – Via eCourts